

Group IV, claim 21, is drawn to the use of a compound of Formula II for the treatment of bacterial, parasitic or viral infections;

Group V, claim 22, is drawn to a collection of compounds of Formula I;

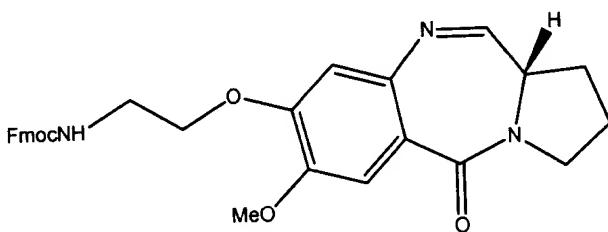
Group VI, claim 23, is drawn to a collection of compounds of Formula II;

Group VII, claims 24, is drawn to a method of screening;

Group VIII, claim 25, is drawn to the use of a compound of Formula II in a method of target validation, and;

Group IX, claim 26, is drawn to the use of a compound of Formula II in a method of functional genomics.

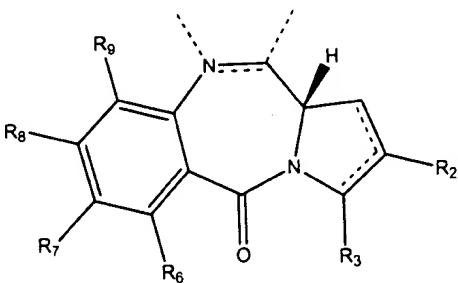
Applicants elect Group II, drawn to a compound of Formula II, with traverse. Applicants also elect, with traverse, a species with the following formula:



This is compound 51 in FIG. 11.

Applicants respectfully submit that the claims of Groups I to IX form a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they share special technical features. Restriction is only proper where "two or more independent and distinct inventions are claimed in one application." 35 U.S.C. §§ 121 and 372. Applicants respectfully submit that the groups of claims identified by the Examiner in the Office Action are not directed to "independent and distinct inventions," but to different embodiments of the same invention.

An important novel feature of the structural formula of the claimed compounds is the following structural feature:



wherein one of R<sub>2</sub>, R<sub>3</sub>, R<sub>6</sub>, R<sub>7</sub> and R<sub>8</sub> is -X'-Y-A-. A is defined as being O, S, NH or a single bond; Y is defined as a divalent group such that HY=R; and X' is defined as being CO, NH, S or O. In some compounds, the N10-C11 imine bond is present, and in others it is masked by O-L and QR<sub>11</sub>. This novel structural feature is present in the formula of claims 2, 4, and 17 (and their dependent claims).

Applicants respectfully submit that there has been an improper implicit rejection of the claimed invention over Takanabe *et al.* (U.S. Patent No. 4,239,683). This implicit rejection has been set forth without any reference to a statutory basis for the unpatentability of the claimed invention. Moreover, the novel structural feature of the present invention is not disclosed in Takanabe *et al.* Takanabe *et al.* does not, *inter alia*, disclose any pyrrolobenzodiazepines with the group -X'-Y-A- attached to one of the positions R<sub>2</sub>, R<sub>3</sub>, R<sub>6</sub>, R<sub>7</sub> and R<sub>8</sub>. Therefore, applicants respectfully submit that Takanabe *et al.* does not disclose the compounds of the present invention.

Applicants respectfully direct the examiner's attention to Annex B of the PCT Administrative Guidelines which sets out the approach for determining whether unity of invention is present. Applicants particularly refer to Part I(e) which deals with combinations of different categories of claims.

The method for determining unity of invention under Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

- (i) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product, or
- (ii) in addition to an independent claim for a given process, an independent claim for an apparatus or means specifically designed for carrying out the said process, or
- (iii) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product and an independent claim for an apparatus or means specifically designed for carrying out the said process.

PCT Administrative Guidelines Annex B, part I(e).

Applicants respectfully submit that the claims of the present invention fall within the permitted categories of claims as set forth in the PCT Administrative Guidelines. Groups II and VI relate to a product and Groups III, IV, VII, VIII and IX relate to uses of that product. Similarly, Group VI is merely a collection of compounds of Formula II, and as such, is not patentably distinct from Group II (the compounds of Formula II). Groups III, IV, VIII and IX are drawn to methods of using compounds of Formula II, and therefore are not patentably distinct from each other, nor from Groups II and VI.

Group V is merely a collection of compounds of Formula I. As such, it is clearly not patentably distinct from Group I (the compounds of Formula I). It follows from the analysis and the analysis at the top of page 3 that a single inventive concept is disclosed herein consistent with the PCT rules.

### **Conclusion**

Applicants respectfully submit that the claims of the present application are not subject to

a 9-way restriction requirement and request withdrawal and reconsideration of the restriction requirement in light of the foregoing analysis.

Respectfully submitted,

  
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